



and the second s

MATERIALS ON PROPERTY

PART I

D. Mendes da Costa Faculty of Law University of Toronto

D. C. Hefferon
Osgoode Hall Law School
York University

1971-72 EDITION

Faculty of Law University of Toronto Toronto, Ontario

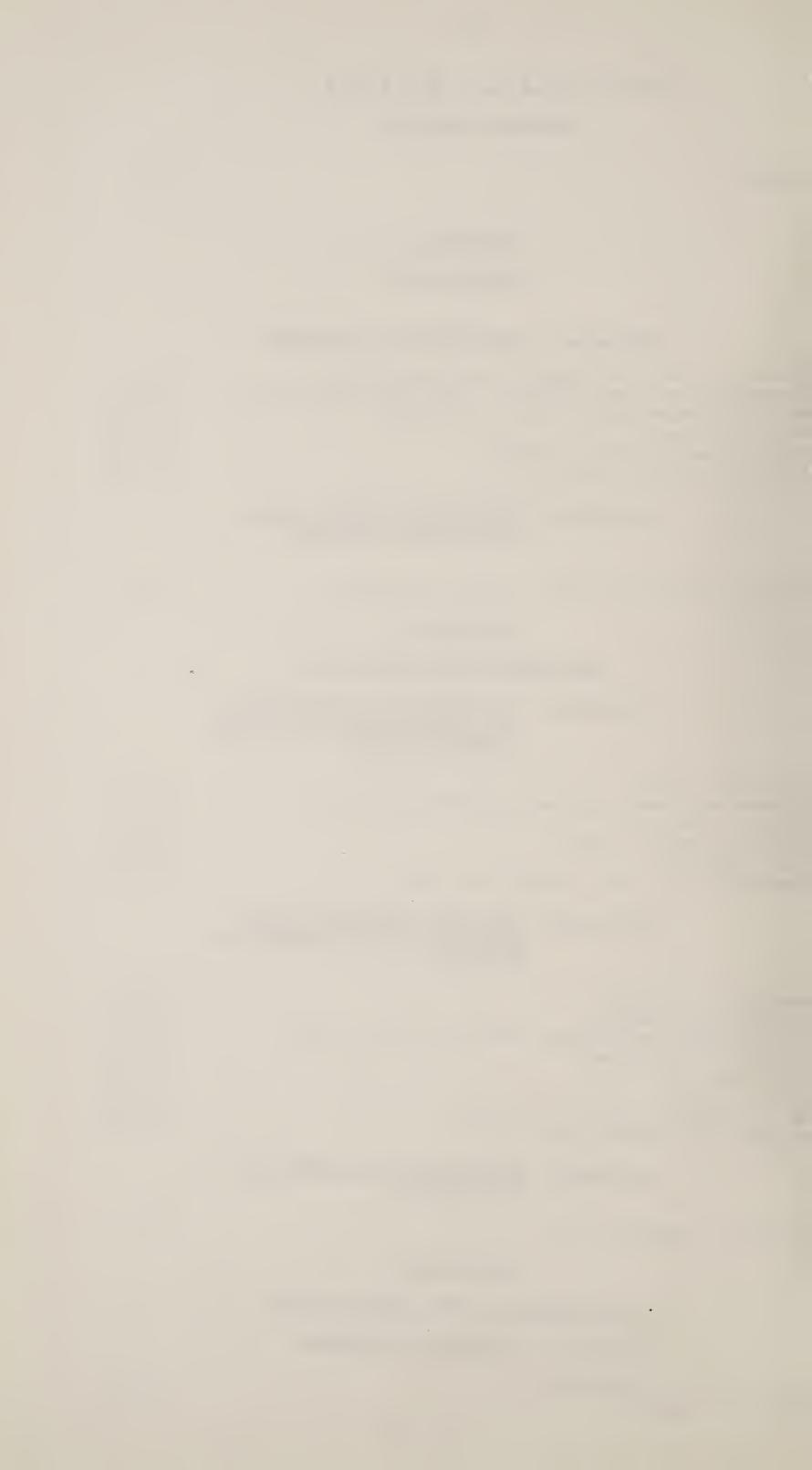
CONTENTS - PART I

PERSONAL PROPERTY

PREFACE	v
CHAPTER I	
INTRODUCTION	
Section 1 THE MEANING OF PROPERTY	
Tucker v. Farm and General Investment Trust International News Service v. The Associated Press Belfast Corporation v. O.D. Cars Ltd. Rex v. MacEwen Laxton (or Ulrich) v. Ulrich Reich, The New Property Section 2 DISTINCTION BETWEEN REAL AND PERSONAL PROPERTY	1.1.1 1.1.5 1.1.15 1.1.21 1.1.23
Aigler, Smith and Tefft, Cases on Property	1.2.1
CHAPTER II	
THE ELEMENTS OF POSSESSION	7♣
Section 1 ACQUISITION OF POSSESSION OF THINGS ABANDONED OR NOT FORMERLY OWNED	
Pierson v. Post Casner and Leach, Cases and Text on Property Young v. Hichens State of Ohio v. Shaw The Tubantia Toronto Daily Star, January 8, 1965	2.1.1 2.1.3 2.1.4 2.1.5 2.1.7 2.1.11
Section 2 HOW LONG POSSESSION ONCE ACQUIRED WILL BE DEEMED TO CONTINUE	
Mullett v. Bradley Campbell v. Hedley The Fur-Bearing Animals Protection Act, 1926 Kearry v. Pattinson The Bees Act Ghen v. Rich M. V. "Polar Star" v. Arsenault Holmes, The Common Law	2.2.1 2.2.3 2.2.9 2.2.10 2.2.12 2.2.13 2.2.15 2.2.18
Section 3 OWNERSHIP IN RELATION TO POSSESSION	
Wilson v. Lombank Ltd.	2.3.1
CHAPTER III	
POSSESSION AND THE FINDING CASES	
Section 1 ELEMENTS OF FINDING	
Fads et al v Brazelton	3.1.1
Fade AT al V Brazellon	Lolo

Keron v. Cashman

3.1.3



Section 2 RIGHTS OF FINDER AGAINST OTHER CLAIMANTS

Armory v. Delamirie Hannah v. Peel Grafstein v. Holme and F City of London Corp. et Reisman, Possession and	al. v. Appleyard et al.	3.2.1 3.2.2 3.2.8 3.2.17
Goodhart, Three Cases on Toronto Daily Star, June	Possession	3.2.22 3.2.38 3.2.47
	DO CHATTELS PASS ON A CONVEYANCE OF LAND	
Moffatt et al. v. Kazana H. E. Dibble Ltd., v. Mo The Law of Property Act, Conveyancing and Law of	ore 1925	3.3.1 3.3.5 3.3.7 3.3.7
	RIGHTS AND DUTIES OF FINDER IN RELATION TO OWNER	
Isaack v. Clark Nicholson v. Chapman Problems		3.4.1 3.4.1 3.4.3
	CHAPTER IV	
EXTING	UISHMENT OF TITLE	
Section 1	THE PERIOD OF LIMITATION	
Ontario Law Reform Commi Limitation of Actio The Limitations Act		4.1.1 4.1.1
Section 2	EXTINGUISHMENT OF RIGHT	
Statute of Limitations Chapin et al. v. Freelan Note on Statute of Limit Ontario Law Reform Commi Limitation of Actio Re Karkut and Highway Tr	ations ssion - Report on	4.2.1 4.2.1 4.2.3 4.2.3 4.2.6
Section 3	DETINUE AND CONVERSION	
Clayton v. Le Roy Wilkinson v. Verity Thomas Brown & Sons Ltd. Eddis v. Chichester Cons		4.3.1 4.3.1 4.3.3 4.3.4
Section 4	ABSENCE OF KNOWLEDGE	
Ontario Law Reform Commi Limitation of Action		4.4.1
Section 5	PROBLEM	
Problem		4.5.1
	CHAPTER V	
	BAILMENTS	
-	NATURE OF AND DISTINCTION BETWEEN BAILMENTS AND SIMILAR TRANSACTIONS	

Palmer v. Toronto Medical Arts Building Ltd.

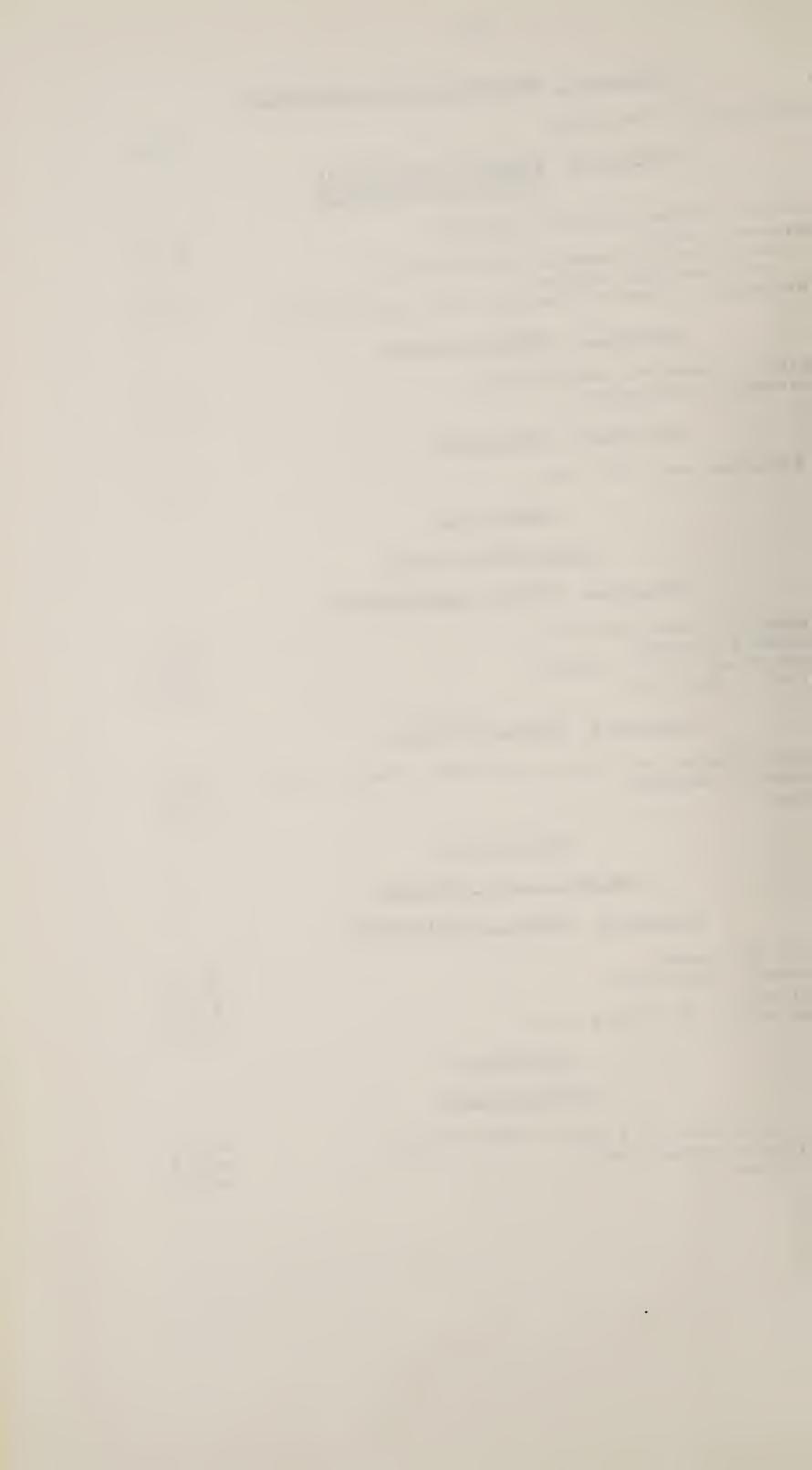
5.1.1



B. G. Transport Service Ltd. v. Marston Motors	
Co. Ltd. Martin v. Town N'Country Delicatessen Ltd.	5.1.7 5.1.15
Brown v. Toronto Auto Parks Ltd.	5.1.19
Peet v. Roth Hotel Company	5.1.23
Crawford v. Kingston and Johnston Furbank v. Andersen	5.1.25
in bank v. Andersen	5.1.28
Section 2 DUTIES OF BAILEES	
Southcote's Case	5.2.1
Coggs v. Bernard	5.2.2
Morris v. C. W. Martin & Sons Ltd. Jenkins v. Smith	5.2.5
Ginsburg v. Vanstone Motors Ltd.	5.2.16 5.2.21
Mansfield Importers and Distributors Ltd. v.	0,2,21
Casco Terminals Ltd.	5.2.22
Edwards v. Newland & Company Canadian Imporial Park of Company	5.2.25
Canadian Imperial Bank of Commerce v. Doucette National Trust Ltd. v. Wong Aviation Ltd.	5.2.30 5.2.34
	0,2,01
Section 3 EXCULPATORY CLAUSES	
Rutter v. Palmer	5.3.1
Gray v. Canwest Parking Ltd. Woolmer v. Delmer Price Ltd.	5.3.3 5.3.7
Hunt & Winterbotham v. B.R.S. Ltd.	5.3.9
Samuel Smith & Sons Ltd. v. Silverman	5.3.17
McCutcheon v. David Macbrayne Ltd.	5.3.20
Mendlessohn v. Normand	5.3.25
Section 4 RIGHT OF BAILEE TO SUE	
THIRD PERSON	
The Winkfield	5.4.1
Associates Discount Corporation v. Gillineau	5.4.6
Section 5 RIGHT OF BAILOR TO SUE THIRD PERSON	
Donald v. Suckling	5.5.1
Chapman v. Robinson and Ferguson	5,5,3
Section 6 SPECIAL BAILMENTS - INNKEEPERS	
Winkworth v. Raven	5.6.1
Williams v. Linnitt	5.6.6
The Innkeepers Act	5.6.18
Laing v. Allied Innkeepers Ltd.	5.6.19
CHAPTER VI	
GIFTS	
Section 1 GENERAL REQUIREMENTS	
Irons v. Smallpiece	6.1.1
Cochrane v. Moore	6.1.2
Brown, The Law of Personal Property	6.1.8
In Re Cole, A Bankrupt. Ex Parte The Trustee of the Property of the Bankrupt	6.1.9
Thomas v. The Times Book Co. Ltd.	6.1.15
Nesbitt v. Chester	6.1.19 6.1.24

Digitized by the Internet Archive in 2018 with funding from University of Toronto

Section 2 PRESUMPTION OF ADVANCEMENT	
Goodfriend v. Goodfriend	6.2.1
Section 3 FACTORS VITIATING AN OTHERWISE VALID GIFT	
Crossley Vaines, Personal Property Spurgeon v. Aasen Re Craig, Dec'd., Meneces and another v. Middleton and others Slovchenko v. Toronto-Dominion Bank and Mereshko	6.3.1 6.3.2 6.3.5 6.3.11
Section 4 CHOSE IN ACTION	
Regina v. Percival and McDougall Sanderson v. Halstead	6.4.1 6.4.4
Section 5 DISCLAIMER	
Re Paradise Motor Co. Ltd.	6.5.1
CHAPTER VII	
GIFTS MORTIS CAUSA	
Section 1 GENERAL REQUIREMENTS	
Schoppel v. Royal Trust Co. Thompson v. Mechan Canada Trust Co. v. Labadie Dufficy v. Mollica	7.1.1 7.1.6 7.1.11 7.1.13
Section 2 CHOSE IN ACTION	
Re Kuyat Dreyer and Dreyer v. Official Administrator Rushford v. Hunchuk Problem	7.2.1 7.2.3 7.2.6
CHAPTER VIII	
THE ORAL TRUST COMPARED	
Section 1 GENERAL REQUIREMENTS	
Statute of Frauds Richards v. Delbridge Re Mellen Carson et al. v. Wilson et al.	8.1.1 8.1.2 8.1.4 8.1.5
CHAPTER IX	
GIFTS OF LAND	
Megarry and Wade, The Law of Real Property Dauphinee v. Height et al. Land Titles Act	9.1.1 9.1.2 9.1.8



PREFACE

The purpose of this Casebook is to introduce the student to some general principles relating to the Law of Real and Personal Property. Volume 1 deals with some aspects of the Law of Personal Property. Volumes 2 and 3 are concerned with some aspects of the Law of Real Property and also with Leaseholds.

This material does not purport to be comprehensive or exhaustive. Further it is compiled on the asumption that other topics, including, for example, land use planning, land finance, land development, real estate transactions, community planning, environmental control, and expropriation are dealt with later in the curriculum. These topics are not included within the scope of this Casebook.

